S.B. CIVIL WRIT PETITION NO. 3027/1993.
(TIKAMA RAM VS. STATE & ORS.)

DATE OF ORDER : 03.07.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Mukesh Vyas for the petitioner.
Mr. B.L. Tiwari, Dy. Government Advocate.

By this petition for writ, a challenge is given to the order dated 25.6.93 passed by the Executive Director, Technology Mission, PHED, Barmer, whereby the petitioner is reverted to his original post from the post of Driver.

In brief, facts of the case are that the petitioner entered in the services of the respondents being appointed as Work Charge Chowkidar on 26.11.1980 and by an order dated 01.04.1987 passed by the Executive Engineer, Division Balotara, he was instructed to work on Truck of the Technology Mission. The petitioner under an order dated 22.9.92 passed by the Executive Director Technology Mission, PHED, Barmer was promoted as work charge driver for a period of three months or till availability of regularly selected incumbent. Regular pay scale was also allowed to the petitioner pertaining to the post of driver under an

order dated 24.9.92. Then came the impugned order dated 25.6.93 canceling the order of promotion dated 22.09.92.

While assailing the validity and propriety of the order dated 25.6.93, it is contended by the counsel for the petitioner that the order of promotion has been cancelled by the Executive Director, Technology Mission without affording opportunity of hearing to the petitioner. It is also contended that the petitioner worked for a pretty long time, therefore, he is entitled to be regularised on the post aforesaid.

A reply to the writ petition has been filed by the counsel for the respondents stating therein that while giving promotion to the petitioner on adhoc basic, the seniority of the helpers working in the department was not taken into consideration and further that the promotion was given to the petitioner purely on a adhoc basis and that does not create any right in his favour to continue on the said post.

Heard counsel for the parties.

The service of the petitioner at the relevant time was govern by Rajasthan Work Charge Employees Service Rules, 1964. Under the Rules of 1964, the eligibility prescribed for promotion to the post of driver is as under:

4.भर्ती की प्रक्रिया-

(क) सीधी भर्ती द्वारा 50%

(ख) पदोन्नति द्वारा 50%

5. अर्हताएं-

(i) हिन्दी पढना एवं लिखना आना चाहिये ।

(ii) उसके नाम का मान्य लाईसेन्स उसके पास होना चाहिये।

(iii) फ्यूल सिस्टम, लुबरीकेटिंग सिस्टम, इगनीशन सिस्टम, कूलिंग सिस्टम आदि का उसको अच्छा ज्ञान होना चाहिये।

6. स्रोत/ग्रेड- जिससे पदोन्नति की जानी है:-

उस वाहन के साथ लगे सहायक (हेल्पर) ग्रेड I या कारखाने में काम करने वाले सहायक ग्रेड I में से

7.ट्रेड-टेस्ट-

व्यवहारिक (प्रेक्टिकल) ड्राइविंग टेस्ट लिया जावे, जिससे कि विभागीय उम्मीदवारों को मोटर वाहन चलाने और उनकी मरम्मत करने का उचित स्टेण्डर्ड का पता चल सके।"

From perusal of the eligibility criteria, it is apparent that a helper Grade I is eligible to be promoted as

driver. The petitioner was not holding the post of helper Grade I and, therefore, he was not eligible to be promoted as helper under the Rules of 1964. The promotion to the post of driver under the Rules of 1964 is required to be made from among the helpers possessing the requisite qualification and who have also successfully undertaken the trade test. The petitioner was never subjected to regular selection proceedings, therefore, he cannot claim regularisation on the post of driver or appointment on the post of driver de hors the rules. The promotion was given to the petitioner purely on adhoc basis for a period of three months or till the availability of regularly selected incumbent, whichever is earlier. It does not give any right to the petitioner to claim regularisation on the post of driver.

In view of whatever discussed above, I do not find any merit in this petition. The same is, therefore, dismissed.

(GOVIND MATHUR)J.

Anil/